

# **PROTECT AND SERVE: SHIFTING POLICE FROM SCHOOL HALLWAYS BACK TO THE STREETS**

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## I. INTRODUCTION

It is a typical Friday afternoon; the phones have been ringing nonstop. I answer the phone, “Juvenile Assessment Center, how may I help you?” The school resource officer (SRO) on the other end of the line replies, “I have a juvenile in custody. ETA fifteen minutes.” The officer immediately begins identifying the youth, “Delta, Oscar, Edgar . . . Juliet, Oscar, Hotel, November . . . DOB is January 1, 2004.” However, I only needed the name of the SRO and the last name of the juvenile to be able to pull up his record on every system to which I had access. I had this juvenile’s family and criminal history memorized from the last seven times I had handled his case over the past month.

While working for a juvenile assessment center in a large metropolitan area in the United States, this scenario became increasingly common. As youth came and went from the center, I had the unfortunate pleasure of becoming intimately acquainted with an increasing number of youth and their criminal, family, and trauma histories. I did not even need to ask most of the questions on the screening tools for filing charges, because I had learned the answers by asking them repeatedly over a very short period of time. The same kids were crossing my desk at the hands of the same officers over and over again. While this repetitive process made my job easier, it quickly became disheartening. Why were the same youth coming to see me repeatedly? What could be done to stop the cycle from continuously repeating until the youth turned eighteen years old?

This example is an illustration of the school-to-prison pipeline (STPP)—a harmful result of the increased collaboration between schools and the court system—that has developed in the United States in recent decades.<sup>1</sup> The STPP paradigm proposes youth are directed from public schools into judicial systems.<sup>2</sup> The American Civil Liberties Union notes that the STPP funnels many youth with learning disabilities or youth with “histories of poverty, abuse, or neglect” out of schools and into the juvenile justice system.<sup>3</sup> Rather than providing these students with the services they need to be successful, schools isolate, punish, and push out these students.<sup>4</sup> Similarly, the Anti-Defamation League defines the STPP as:

The School-to-Prison Pipeline is a set of policies and procedures that drive our nation’s schoolchildren into a pathway that begins in school and ends in the criminal justice system. Zero tolerance and other harsh discipline policies that often impose suspensions, expulsions, and arrests increase the likelihood that students will

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<sup>1</sup> Christopher A. Mallett, *The School-to-Prison Pipeline: A Critical Review of the Punitive Paradigm Shift*, 33 CHILD ADOLESC. SOC. WORK J. 15, 15 (2015).

<sup>2</sup> See J.C. Barnes & Ryan T. Motz, *Reducing Racial Inequalities in Adulthood Arrest by Reducing Inequalities in School Discipline: Evidence From the School-to-Prison Pipeline*, 54 DEV. PSYCH. 2328, 2329 (2018).

<sup>3</sup> *School-to-Prison Pipeline: What’s at Stake*, AM. CIV. LIBERTIES UNION, <https://www.aclu.org/issues/juvenile-justice/juvenile-justice-school-prison-pipeline> (last visited Aug. 8, 2022).

<sup>4</sup> *Id.*

drop out of school. Students who drop out of school, in turn, are much more likely to go to jail or prison later in life. . . . students of color, students with disabilities, and LGBTQ students are more likely to be suspended, expelled, or arrested in school than their peers, even though evidence shows that there is no difference in students' behavior to explain the different treatment.<sup>5</sup>

It is suggested that the mechanisms fueling the STPP disproportionately affect minority youth and therefore funnel more minority youth than white youth into the juvenile justice and adult criminal justice systems.<sup>6</sup> The Office of Juvenile Justice and Delinquency Prevention (OJJDP) statistics from 2020 describe the racial/ethnic background of the juvenile population nationally and by state. Nationally, 51.9% of the juvenile population was White, 15.3% Black, 1.0% American Indian, 6.3% Asian, and 25.6% Hispanic.<sup>7</sup> However, according to the 2020 Census data, 57.8% of the population was White, 12.1% Black, 18.7% Hispanic, and 11.4% other races/ethnicities.<sup>8</sup> Several different factors have been studied as potential contributors to the STPP including the increased presence of law enforcement officers in schools, “zero-tolerance policies” steering school discipline to a more punitive approach, lack of training about mental health symptoms in childhood and adolescence for school staff, and bias, particularly implicit bias, of teachers and other school staff. Most of the research regarding the STPP has focused on schools in America. However, many of these factors are also products of legal actions enacted in other countries, including Canada. The governments and regulatory agencies in Canada have begun to repeal and remove these contributing factors from their legal landscape, potentially lessening the negative effects of the STPP in Canada.<sup>9</sup>

Part I of this Note discusses the historical events leading to the evolution of the STPP in both the United States and Canada. Particularly, this history will

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<sup>5</sup> Anti-Defamation League, *What is the School-to-Prison Pipeline 2* (2015), <https://www.adl.org/sites/default/files/what-is-the-school-to-prison-pipeline.pdf> (last visited Aug. 8, 2022).

<sup>6</sup> See Barnes & Motz, *supra* note 2.

<sup>7</sup> Off. of Juv. Just. and Delinq. Prevention, *Juvenile Population Characteristics* (Oct. 13, 2021), <https://www.ojjdp.gov/ojstatbb/population/qa01104.asp?qaDate=2020>.

<sup>8</sup> Eric Jensen et al., *The Chance That Two People Chosen at Random Are of Different Race or Ethnicity Groups Has Increased Since 2010*, U.S. CENSUS BUREAU (Aug. 12, 2021), <https://www.census.gov/library/stories/2021/08/2020-united-states-population-more-racially-ethnically-diverse-than-2010.html>.

<sup>9</sup> See Peel Regional Police to pull resource officers out of schools permanently, CBC NEWS (Nov. 19, 2020), <https://www.cbc.ca/news/canada/toronto/peel-police-resource-officer-program-cancelled-1.5807706>; Shanifa Nasser, *Canada's largest school board votes to end armed police presence in schools*, CBC NEWS (Nov. 22, 2017), <https://www.cbc.ca/news/canada/toronto/school-resource-officers-toronto-board-police-1.4415064>; Lauren Boothby, *Edmonton Public Schools suspends school resource officer program for 2020-2021 school year*, EDMONTON J. (Sept. 4, 2020), <https://edmontonjournal.com/news/local-news/edmonton-public-schools-suspends-school-resource-officer-program-for-2020-2021-school-year>.

focus on the use of SROs and the regulation of their use, or lack thereof, in both countries. Following the discussion of the evolution of SRO use in the United States and Canada, Part II compares the systems of the two countries to determine which system promotes more equitable treatment of all youth and which system creates opportunities to lessen the effects of the STPP, if not eliminate it. Part III argues that more regulation of SROs and more clarity in the roles that they are expected to play in a school ecosystem will be effective in reducing the effects of the STPP. Part IV concludes the Note with suggestions for policy change in the regulation of SRO use in the United States.

## II. THE RISE OF SCHOOL RESOURCE OFFICER USE

### A. General Overview of School Resource Officer Use

The practice of having law enforcement officers on school campuses is not new; police officers have been associated with schools in one way or another since the early 1900s in some countries.<sup>10</sup> Early police involvement at schools was typically limited to preventing truancy, keeping the premises safe for pedestrians and traffic, and preventing child abuse.<sup>11</sup> Increases in youth violence and criminal offending led to recognition by policymakers that school violence is a problem in many jurisdictions.<sup>12</sup>

While using law enforcement on school campuses has occurred around the world, not every program or regime is the same. Police programs at schools encompass a wide range of approaches and can be classified along seven different dimensions.<sup>13</sup> First, school-based policing programs can be either proactive (intervening before the crime occurs) or reactive (responding after an incident occurs).<sup>14</sup> The FBI suggests including both proactive and reactive elements in a “comprehensive approach to school safety.”<sup>15</sup> This comprehensive approach may include sanctioning students for criminal violations and providing resources to address the underlying issues leading to the criminal violations.<sup>16</sup> Second, school-based policing programs can primarily aim to deter or prevent crime.<sup>17</sup> Deterrence is typically accomplished by having uniformed officers present for surveillance at the school while prevention may take the form of an education curriculum or

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<sup>10</sup> Margaret Shaw, *Police, Schools and Crime Prevention: A preliminary review of current practices*, INT’L CENTRE FOR THE PREVENTION OF CRIME 2 (2004), <https://www.publicsafety.gc.ca/lbr/archives/cnmcs-plcng/cn3768-eng.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 3.

<sup>14</sup> *Id.*

<sup>15</sup> Fed. Bureau of Investig., *Violence Prevention in Schools*, U.S. DEP’T. OF JUST. 2 (Mar. 2017), <https://www.fbi.gov/file-repository/violence-prevention-in-schools-march-2017.pdf/view>.

<sup>16</sup> *Id.*

<sup>17</sup> Shaw, *supra* note 10, at 3.

targeting children who are “at risk” and working closely with these youth.<sup>18</sup> Third, interventions provided by school-based policing programs can be general or targeted.<sup>19</sup> Targeted interventions are directed at specific students while general interventions are directed at the school as a whole.<sup>20</sup> Fourth, the goals of the program can be broad (e.g. building trusting relationships between students and police) or specific (e.g. preventing drug use, gang activity, etc.).<sup>21</sup> Fifth, police may be formal (e.g. uniformed officers emphasizing police functions) or informal (plain clothes building relationships through participating in activities with students and/or parents) in the way that they perform their roles at the schools.<sup>22</sup> Sixth, outcome goals may be short-, medium-, or long-term.<sup>23</sup> Finally, police may engage the school in either a bilateral (i.e. working only with the school/school administrators) or multi-partnership way (i.e. working with several organizations and services in addition to the school/school administrators.).<sup>24</sup> The FBI recommends engaging several community agencies or at least being familiar with services and resources available for students and their families.<sup>25</sup>

Researchers have also classified law enforcement involvement at schools into three different models: school-based officers, police as educators, and comprehensive police-school liaison schemes.<sup>26</sup> School-based officer programs place permanent police officers in schools.<sup>27</sup> Police as educator programs involve police officers fulfilling an educational role in schools; this type of programing may entail the officer teaching classes to students, parents, teachers, administrators, or a combination of these groups.<sup>28</sup> Comprehensive police-school liaison programs involve the police working with the school as a part of a network of organizations and services to address problems in the school.<sup>29</sup> Some programs attempt to combine parts of different models.<sup>30</sup>

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18 *Id.*

19 *Id.*

20 *Id.*

21 *Id.*

22 Shaw, *supra* note 10, at 3.

23 *Id.*

24 *Id.*

25 Fed. Bureau of Investig., *supra* note 15, at 3.

26 Shaw, *supra* note 10, at 8.

27 *Id.* (School-based officer programs are generally used in the United States).

28 *Id.* at 13. *See also* Cmty. Oriented Policing Serv., *School Resource Officers and School-based Policing*, U.S. DEP’T. OF JUST. (Dec. 2019),

[https://cops.usdoj.gov/pdf/SRO\\_School\\_Policing\\_Factsheet.pdf](https://cops.usdoj.gov/pdf/SRO_School_Policing_Factsheet.pdf) (highlighting the role of SROs teaching students about “crime prevention and safety, drug awareness, conflict resolution, and other topics related to law enforcement and the legal system”).

29 Shaw, *supra* note 10, at 8 (several programs implemented in Canada follow this structure).

30 *Id.*

## **B. The United States**

### 1. History of School Resource Officers and the School-to-Prison Pipeline

The first school resource officer in the United States was employed in Flint, Michigan, in the 1950s in an effort to build relationships between the youth at the school and the local police department.<sup>31</sup> Between the 1950s and 1990s, the idea of building relationships between youth and police spread across the country before the movement's policy focus dramatically shifted due to the implementation of the Department of Justice Office of Community Oriented Policing Services' (COPS) "COPS in Schools" grant program.<sup>32</sup> The COPS in Schools program provided up to \$125,000 per SRO position created and filled after the grant's start date.<sup>33</sup> The program was designed to provide an incentive for law enforcement agencies to "build collaborative partnerships with the school community and to use community policing efforts to combat school violence."<sup>34</sup> SROs who were being paid through this federal program were required to devote a minimum of 75% of their work time to work in and around primary and secondary schools.<sup>35</sup>

Following the infamous active shooter event at Columbine High School in Littleton, Colorado, on April 20, 1999, there was an abrupt increase in SRO use across the United States.<sup>36</sup> The Columbine tragedy was the worst active shooter event in a school at the time.<sup>37</sup> Two students opened fire at the high school, killing thirteen people and wounding over twenty others, before taking their own lives.<sup>38</sup> Columbine sparked a national movement advocating for more school safety.<sup>39</sup>

In the wake of the Columbine tragedy, many school districts implemented SRO programs<sup>40</sup> and "zero-tolerance" rules guiding discipline for "disruptive behavior and threats of violence from students."<sup>41</sup> Despite these increased security measures, active shooter events continued to plague all ages in schools across the country.<sup>42</sup> Since the massacre at Columbine, there have been 299 total active

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<sup>31</sup> Melinda D. Anderson, *When Schooling Meets Policing*, ATLANTIC (Sept. 21, 2015), <https://www.theatlantic.com/education/archive/2015/09/when-schooling-meets-policing/406348/>.

<sup>32</sup> *Id.*

<sup>33</sup> *COPS in Schools*, FED. GRANTS, <https://www.federalgrants.com/COPS-in-Schools-49.html>.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Anderson, *supra* note 31.

<sup>37</sup> History.com Editors, *Columbine Shooting*, HISTORY (May 25, 2022), <https://www.history.com/topics/1990s/columbine-high-school-shootings>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Anderson, *supra* note 31.

<sup>41</sup> History.com Editors, *supra* note 37.

<sup>42</sup> See Aliza Vigderman & Gabe Turner, *A Timeline of School Shootings Since Columbine*, SECURITY.ORG (Aug. 25, 2022), <https://www.security.org/blog/a-timeline-of-school-shootings-since-columbine/>.

shooter events at schools in the United States.<sup>43</sup> There have been fifty-seven times as many active shooter events in the United States as in Canada, Japan, Germany, Italy, France, and the UK combined.<sup>44</sup> A total of 304 individuals have lost their lives at the hands of active shooters in schools while another 485 individuals have been injured.<sup>45</sup> Six of these events caused the deaths of at least ten individuals.<sup>46</sup> Students of all ages have been a victim of active shooters in schools since the Columbine massacre with ten such events occurring in elementary schools.<sup>47</sup>

Among the events that have renewed the call for more stringent school safety measures and increased SRO use in schools is the Sandy Hook Elementary School shooting on December 14, 2012.<sup>48</sup> The 2012 Newtown massacre left twenty children and six adults dead, and two others injured; in the aftermath, the National Rifle Association advocated for introducing armed guards into “all American schools” since over one-fifth of schools in the United States already employed some sort of armed security officer.<sup>49</sup>

Despite the increased presence of SROs in schools, active shooter events continued to take the lives of students, teachers, and school administrators across the United States.<sup>50</sup> Seventeen individuals lost their lives on February 14, 2018, at Marjory Stoneman Douglas High School in Parkland, Florida, when an SRO was on duty.<sup>51</sup> Approximately three months after the deaths in Parkland, an active shooter claimed the lives of ten people and injured at least ten more, including a law enforcement officer, at Santa Fe High School near Houston, Texas, on May 18, 2018.<sup>52</sup> Additionally, a study conducted by Texas State University and the FBI found that none of the twenty-five active shooter events in schools examined were

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<sup>43</sup> *Id.*

<sup>44</sup> Chip Grabow & Lisa Rose, *The US has had 57 times as many school shootings as the other major industrialized nations combined*, CNN, <https://www.cnn.com/2018/05/21/us/school-shooting-us-versus-world-trnd/index.html> (May 21, 2018, 5:08 PM) (CNN used these countries for comparison because they are the other six “G7 countries” or the countries with the “largest advanced economies in the world.”)

<sup>45</sup> See Vigderman & Turner, *supra* note 42.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Ted Gregory, *Outcomes in school shootings can differ wildly despite presence of resource officers*, CHICAGO TRIBUNE, (May 18, 2018, 9:25 PM), <https://www.chicagotribune.com/news/ct-met-school-shootings-resource-officers-20180518-story.html>

<sup>49</sup> Michael Ray, *Sandy Hook Elementary School shooting*, BRITANNICA (Sept. 21, 2021) <https://www.britannica.com/event/Sandy-Hook-Elementary-School-shooting>.

<sup>50</sup> Elizabeth Chuck et al., *17 killed in mass shooting at high school in Parkland, Florida*, NBC NEWS, <https://www.nbcnews.com/news/us-news/police-respond-shooting-parkland-florida-high-school-n848101> (Feb. 15, 2018, 8:20 AM).

<sup>51</sup> *Id.*

<sup>52</sup> Manny Fernandez et al., *In Texas School Shooting, 10 Dead, 10 Hurt and Many Unsurprised*, N.Y. TIMES (May 18, 2018), <https://www.nytimes.com/2018/05/18/us/school-shooting-santa-fe-texas.html>.

stopped by armed officers; they were ended by restraint by unarmed staff or the shooter decided to stop.<sup>53</sup>

Most recently, an active shooter entered Robb Elementary School in Uvalde, Texas, on May 24, 2022, killing seventeen students and two teachers before being fatally shot by police responding to the incident.<sup>54</sup> While Uvalde School District’s safety plan “included its own police force, social media monitoring, and a threat reporting system,” the shooter was able to enter the school without being confronted by any police officer.<sup>55</sup> Despite the school district spending \$450,000 to employ four police officers and additional security staff “who patrol door entrances, parking lots and perimeters of the campuses,” no SRO was available to engage the shooter before he was able to complete the “deadliest US school shooting in nearly a decade.”<sup>56</sup> The tragedy at Robb Elementary School marks the thirtieth reported active shooter at a school teaching children in kindergarten through twelfth grade in 2022—in May—averaging six active shooter events in schools per month in 2022.<sup>57</sup>

Given these few examples, it appears that employing SROs in schools may not be nearly as effective in preventing active shooter events as post-Columbine advocates originally hoped. However, the increase of SRO use in schools coincided with the implementation of “zero-tolerance” policies<sup>58</sup> and legislation reacting to the media-propagated “Super-predator” myth in the 1990s.<sup>59</sup> Zero-tolerance policies were originally introduced into school systems during the 1980s to aid the War on Drugs, eliminate violence in schools, and were designed to “mandate predetermined consequences or punishments” for “violent and threatening” actions.<sup>60</sup> The Gun-Free Schools Act of 1994 (GFSA) was one of the first laws accelerating the implementation of zero-tolerance policies in schools.<sup>61</sup> The GFSA’s original intent was to implement consistent harsh disciplinary policies for

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<sup>53</sup> Kendrick Washington & Tori Hazelton, *School Resource Officers: When the Cure is Worse than the Disease*, ACLU WASH. (May 24, 2021), <https://www.aclu-wa.org/story/school-resource-officers-when-cure-worse-disease>.

<sup>54</sup> Holly Yan et al., *What we know and don’t know in the Texas massacre*, CNN, (May 27, 2022, 6:26 AM), <https://www.cnn.com/2022/05/25/us/uvalde-texas-elementary-school-shooting-what-we-know/index.html>.

<sup>55</sup> Eric Levenson et al., *Uvalde mass shooter was not confronted by police before he entered the school, Texas official says*, CNN, (May 27, 2022, 3:56 AM), <https://www.cnn.com/2022/05/26/us/uvalde-texas-elementary-school-shooting-thursday/index.html>.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> History.com Editors, *supra* note 37.

<sup>59</sup> See Carroll Bogert & Lynnell Hancock, *Superpredator: The Media Myth That Demanded a Generation of Black Youth*, MARSHALL PROJECT (Nov. 20, 2020), <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth>.

<sup>60</sup> Stephanie D. Stahl, *The Evolution of Zero-Tolerance Policies*, 4 CRISSCROSS (2016).

<sup>61</sup> Nancy A. Heitzeg, *Education Or Incarceration: Zero Tolerance Policies And The School To Prison Pipeline*, F. PUB. POL’Y, 1, 8 (2009).

incidents involving weapons on school grounds, but it has frequently been used to justify punishment for minor non-violent incidents including being tardy to class and disorderly conduct.<sup>62</sup>

Similarly, legislation in reaction to the Super-predator hysteria toughened laws on juveniles by making it easier to send juveniles to adult criminal courts and prisons, cutting back on the powers of family courts, and imposing mandatory sentences for certain offenses which could include life without parole.<sup>63</sup> Between 1992 and 1999, nearly every state in the United States passed legislation implementing some, if not all, of these “reforms.”<sup>64</sup> The myth about a growing group of “radically impulsive, brutally remorseless”<sup>65</sup> youth was quickly debunked as violent juvenile crime rates began to fall in the mid-1990s; at the turn of the century, the juvenile homicide rate was below that of 1985.<sup>66</sup> Despite the evidence that the development of an army of violent juveniles was not imminent, courts continued to subject youth to mandatory life-without-parole sentences until the Supreme Court of the United States held this sentence to be unconstitutional in *Miller v. Alabama* in 2012.<sup>67</sup> While this landmark case shifted the sentencing of juveniles in the right direction, 3,400 youth under the age of eighteen were held in adult jails per day in 2018; 79% of these youth were held as adults.<sup>68</sup>

Even though the zero-tolerance and super-predator policies may have been well-intentioned in their implementation, the reality has been an increased risk of suspension, expulsion, and/or arrest at school.<sup>69</sup> SRO use in conjunction with zero-tolerance policies has shifted school disciplinary procedures for minor problems away from school administrators toward criminalization and involvement with the judicial system as “[b]ehavior that once resulted in a trip to the principal’s office now is grounds for a trip to jail.”<sup>70</sup> However, these policies do not affect all youth in the same way; studies have found that more punitive policies are implemented and utilized at higher rates when the school’s student population has higher proportions of African American students.<sup>71</sup> Employing SROs in schools likely facilitates the disproportionate numbers of referrals for youth of color because law enforcement is readily available for school administration to utilize for disciplinary

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<sup>62</sup> *Id.*

<sup>63</sup> See Bogert & Hancock, *supra* note 59.

<sup>64</sup> *The Superpredator Myth, 25 Years Later*, EQUAL JUST. INITIATIVE (Apr. 7, 2014), <https://eji.org/news/superpredator-myth-20-years-later/>.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Miller v. Alabama*, 567 U.S. 460 (2012) (holding that mandatory life without the possibility of parole sentences were unconstitutional for juvenile defendants).

<sup>68</sup> U.S. Department of Justice, *Juveniles in Adult Jails and Prisons*, OJJDP (May 15, 2020), <https://www.ojjdp.gov/ojstatbb/corrections/qa08700.asp>.

<sup>69</sup> Heitzeg, *supra* note 61.

<sup>70</sup> *Id.*

<sup>71</sup> Miner P. Marchbanks III et al., *School Strictness and Disproportionate Minority Contact: Investigating Racial and Ethnic Disparities With the “School-to-Prison Pipeline”*, 16 YOUTH VIOLENCE & JUV. JUST. 241, 253 (2018).

issues rather than dealing with the behavior through traditional school disciplinary channels.<sup>72</sup>

## 2. Regulation of School Resource Officers

Because school resource officers are increasingly involved in school disciplinary measures, it is clear that these law enforcement officers should be specially trained, and the role that they are expected to play in the school ecosystem should be explicitly defined. While there are no federal statutes addressing the implementation and regulation of SROs,<sup>73</sup> the Omnibus Crime Control and Safe Streets Act of 1968 defines the term school resource officer as “a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned . . . to work in collaboration with school and community-based organizations,”<sup>74</sup> making it clear that SROs are expected to fulfill several different, potentially conflicting roles. Additionally, the COPS in Schools grant description mentions several roles for SROs “including, but not limited to . . . law enforcement officer/safety specialist, law-related educator, and problem solver/community liaison.”<sup>75</sup> However, legislation regarding the training of SROs and outlining SRO roles is inconsistent across jurisdictions, if any regulation exists.<sup>76</sup> As a result, SROs play different roles depending on the school to which the SRO has been assigned. Some SROs only fill the role of disciplinarian while others fill more service-oriented roles; others are tasked with fulfilling both of these roles, which can be conflicting at times.<sup>77</sup>

Navigating these potentially conflicting roles can be difficult for any law enforcement officer. However, this difficulty becomes exacerbated when the SRO is not trained beyond that received at the academy to become a police officer. Organizations like the National Association of School Resource Officers (NASRO) offer this specialized training to SROs.<sup>78</sup>

The NASRO offers two general training courses for SROs: the Basic SRO Course and the Advanced SRO course.<sup>79</sup> The Basic SRO Course is a forty-hour course that is “designed for law enforcement officers . . . working in an educational

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<sup>72</sup> See Washington & Hazelton, *supra* note 53.

<sup>73</sup> See U.S.C.A. (West 2021).

<sup>74</sup> Cathy Girouard, *School Resource Officer Training Program*, OJJDP (Mar. 2001), <https://www.ojp.gov/pdffiles1/ojjdp/fs200105.pdf>.

<sup>75</sup> *COPS in Schools*, *supra* note 33.

<sup>76</sup> See COLO. REV. STAT. ANN. § 24-31-312 (West 2012); WASH. REV. CODE ANN. § 28A.320.124 (West 2021); WIS. STAT. ANN. § 165.28 (West 2018).

<sup>77</sup> Cheryl Lero Jonson, *Preventing School Shootings: The Effectiveness of Safety Measures*, 12 VICTIMS & OFFENDERS, 956, 962 (2017).

<sup>78</sup> Mark Keierleber, *Why So Few School Cops Are Trained to Work With Kids: Only 12 states mandate that school resource officers receive student-specific preparation*, ATLANTIC (Nov. 5, 2015), <https://www.theatlantic.com/education/archive/2015/11/why-do-most-school-cops-have-no-student-training-requirements/414286/>.

<sup>79</sup> Nat’l Ass’n of Sch. Res. Officers, *Training Courses*, <https://www.nasro.org/training/training-courses/>.

environment and with school administrators.”<sup>80</sup> This curriculum endorses the NASRO “triad concept of school-based policing.”<sup>81</sup> Throughout the training, SROs are taught sixteen different modules related to school-based policing.<sup>82</sup>

The Advanced SRO Course is a twenty-four-hour course that “advances the SRO’s knowledge and skills as a law enforcement officer, informal counselor, and educator.”<sup>83</sup> Throughout the training, SROs work their way through seven educational modules.<sup>84</sup> The training ends with a skills assessment module which means that officers participating in the Advanced SRO training “will show mastery of skills learned” during the training.<sup>85</sup>

These two NASRO trainings provide sixty-four hours of school and youth-centered training. However, participation in this training is usually voluntary, and many law enforcement officers become SROs without taking even the Basic SRO training.<sup>86</sup> Despite the explosion of SRO use since the 1990s, only twelve states have passed laws that require specialized training of SROs as of 2015.<sup>87</sup> Many states that require training do not require either NASRO course.<sup>88</sup>

Colorado is one state that requires specialized training of SROs.<sup>89</sup> Section 24-31-312 of the Colorado Revised Statutes stipulates that “[on] or before January 1, 2014, the P.O.S.T. board shall identify an SRO training curriculum.”<sup>90</sup> The training curriculum must “incorporate the suggestions of relevant stakeholders and advocates,” but the stakeholders and advocates that must be included in the creation

<sup>80</sup> Nat’l Ass’n of Sch. Res. Officers, *Basic 40-Hour School Resource Officer Course Outline and Objectives*, <https://www.nasro.org/training/training-courses/>.

<sup>81</sup> *Id.* (listing Law Enforcement Function, Mentoring Students, and Guest Speaking as the parts of the triad concept).

<sup>82</sup> *Id.* (listing the modules as 1) Foundations of School-Based Law Enforcement, 2) Ethics and the SRO, 3) The SRO as a Teacher, 4) Guest Speaker and Effective Presentations, 5) Understanding Special Needs Students, 6) The SRO as an Informal Counselor/Mentor, 7) Social Media and Cyber Safety, 8) Understanding the Teen Brain, 9) Violence and Victimization: Challenges to Development, 10) Sex Trafficking of Youth, 11) School Law, 12) Developing and Supporting Successful Relationships with Diverse Students, 13) Effects of Youth Trends and Drugs on the School Culture and Environment, 14) Threat Response: Preventing Violence in School Settings, 15) School Safety and Emergency Operations Plans, and 16) Crime Prevention Through Environmental Design).

<sup>83</sup> Nat’l Ass’n of Sch. Res. Officers, *supra* note 79.

<sup>84</sup> Nat’l Ass’n of Sch. Res. Officers, *Advanced 24-hour School Resource Officer Course Outline and Objectives*, [https://www.nasro.org/clientuploads/Course%20Agendas/NASRO\\_ADVANCED\\_SRO\\_COURSE\\_CONTENT\\_OUOUTLI\\_AND\\_OBJECTIVES.pdf](https://www.nasro.org/clientuploads/Course%20Agendas/NASRO_ADVANCED_SRO_COURSE_CONTENT_OUOUTLI_AND_OBJECTIVES.pdf).

<sup>85</sup> *Id.*

<sup>86</sup> Keierleber, *supra* note 78.

<sup>87</sup> *Id.* (the states, as of 2015, that require training of school resource officers are Alaska, Arkansas, California, Colorado, Indiana, Maryland, Mississippi, Missouri, New Jersey, South Carolina, Tennessee, and Texas).

<sup>88</sup> See, e.g., COLO. REV. STAT. ANN. § 24-31-312 (West, Westlaw through legis. effective December 31, 2022 Second Reg. Sess., 73rd Gen. Assemb.); WASH. REV. CODE ANN. § 28A.320.124 (West, Westlaw through 2022 Reg. Sess. of Wash. Leg.).

<sup>89</sup> § 24-31-312.

<sup>90</sup> *Id.* § 24-31-312(1).

of the training curriculum are not defined or listed in the statute.<sup>91</sup> As of June 2, 2017, the NASRO Basic Course is the only curriculum that will fulfill the training requirements.<sup>92</sup> Colorado law also “encourage[s]” all law enforcement agencies to ensure those police officers who have been assigned to be an SRO have completed the training curriculum or will complete the training curriculum within the first six months of the assignment.<sup>93</sup>

In addition to creating a training curriculum for SROs, Colorado law also clarifies at least some of the responsibilities of SROs.<sup>94</sup> For example, the SRO must notify the school’s principal of an arrest made on school grounds, in a school vehicle, or at a school activity within twenty-four hours of the arrest.<sup>95</sup> Similarly, the SRO must notify the school’s principal of the issuance of a summons or ticket requiring a student to appear in court within ten days of the issuance.<sup>96</sup> Colorado law also requires the SRO be familiar with the provisions of the school’s code of conduct and discipline.<sup>97</sup> This provision could be a basic, but important, way to ensure that the SRO knows their role in enforcing school rules and disciplining students.

Washington is one of the most recent states to pass legislation addressing the role of SROs in schools.<sup>98</sup> Washington law requires school districts utilizing “safety and security staff” in and beyond the 2021-2022 school year to adopt a policy that clearly states safety staff duties and responsibilities related to their role in student discipline.<sup>99</sup> Washington law also requires the policy to prohibit an SRO from “becoming involved in formal school discipline situations that are the responsibility of school administrators.”<sup>100</sup> The school’s policy must also clarify under which circumstances teachers and school administrators may ask SROs to intervene with a student.<sup>101</sup> Finally, Washington law stipulates that the school’s policy must explain the SRO’s role in “creating a positive school climate and positive relationships with students.”<sup>102</sup> Washington law regulating SROs leaves a lot of room for differences between school districts in how they choose to regulate their individual SROs. However, this allows a school to tailor its regulation of its SROs to its specific needs and student population while ensuring the SRO knows their role in meeting the school’s needs.

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<sup>91</sup> *Id.* § 24-31-312(2).

<sup>92</sup> *Mandated Training*, COLO. PEACE OFFICER STANDARDS & TRAINING, <https://post.colorado.gov/training/mandated-training> (last visited May 29, 2022).

<sup>93</sup> § 24-31-312(3)(a).

<sup>94</sup> COLO. REV. STAT. ANN. § 22-32-146 (West, Westlaw through legis. effective Dec. 31, 2022 Second Reg. Sess., 73rd Gen. Assemb.).

<sup>95</sup> *Id.* § 22-32-146(1).

<sup>96</sup> *Id.* § 22-32-146(2).

<sup>97</sup> *Id.* § 22-32-146(3).

<sup>98</sup> WASH. REV. CODE ANN. § 28A.320.124 (West, Westlaw through effective legis. from 2022 Reg. Sess. of Wash. Leg.).

<sup>99</sup> *Id.* § 28A.320.124(1)(a).

<sup>100</sup> *Id.* § 28A.320.124(1)(b).

<sup>101</sup> *Id.* § 28A.320.124(b).

<sup>102</sup> *Id.* § 28A.320.124(c).

Explicitly outlining which roles an SRO is expected to play in the school ecosystem will require less discretion on the part of the SRO as their responses are guided by a clear rule, and it is likely that the SRO will act more consistently when disciplining students regardless of race, ethnicity, gender, or disability status.<sup>103</sup> South Carolina's Code of Regulations outlines four roles that SROs are expected to play in the school system: law enforcement officer, law-related educator, community liaison, and positive role model.<sup>104</sup> While the descriptions of these roles are generally vague, this regulation explicitly states that SROs "are not school disciplinarians and shall not ordinarily be requested or permitted to intervene in school discipline matters."<sup>105</sup> Furthermore, SROs are only to be used when the student's behavior "amounts to a Level III violation for which law enforcement involvement is required."<sup>106</sup> A Level III violation is criminal conduct and is defined as activities "engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school."<sup>107</sup>

While some states have begun to regulate the use of SROs more—other states have done very little, if anything—to regulate the use of these law enforcement officials in schools.<sup>108</sup> For example, Wisconsin law does not directly address SRO use in its statutes; instead, it creates a general "office of school safety."<sup>109</sup> The office of school safety is required to "create model practices for school safety" with the help of the department of public instruction.<sup>110</sup> Additionally, this office is required to offer training to school staff on school safety or contract

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<sup>103</sup> Joseph M. McKenna & Shawna R. White, *Examining the Use of Police in Schools: How Roles May Impact Responses to Student Misconduct*, 43 AM. CRIM. JUST. 448, 466-67 (2018).

<sup>104</sup> S.C. CODE ANN. REGS. 43-210(III) (West, Westlaw through State Reg. Volume 46, Issue 7) (defining the roles expected to be played by SROs in the schools.) To fulfill the law enforcement officer role, an SRO is to be called in response to criminal incidents and must "assist in emergency crisis planning, building security, and training school personnel on handling crisis situations." *Id.* 43-210(III)(A). To fulfill the law-related educator, an SRO will "help design and present law-related topics regarding the role of law enforcement in our society." *Id.* 43-210(III)(B). To fulfill the community liaison role, an SRO will "build working relationships with school personnel, students, and parents" through "visibility within the school community" and attending and participating in school function. *Id.* 43-210(III)(C). To fulfill the positive role model role, an SRO "shall be [a] positive role model[]" and may be used to promote the profession of law enforcement as a career choice for students." *Id.* 43-210(III)(D).

<sup>105</sup> § 43-210(IV).

<sup>106</sup> *Id.*

<sup>107</sup> S.C. CODE ANN. REGS. 43-279(IV)(C) (West, Westlaw through State Reg. Volume 46, Issue 7); *See id.* 43-210(IV) (requiring SROs to be called only when the student's behavior is "criminal" or the behavior "presents an immediate safety risk to one or more people.").

<sup>108</sup> Five states (Hawaii, Iowa, Minnesota, Oklahoma, and Wyoming) have no statutory regulation on school resource officer use.

<sup>109</sup> *See* WIS. STAT. ANN. § 165.28 (West, Westlaw through 2021 Act 267).

<sup>110</sup> *Id.* § 165.28(1).

with another agency to offer training to school staff on school safety.<sup>111</sup> The statute does not explicitly mention the use of SROs. Therefore, it does not regulate the use of SROs other than through a “model practice[] for school safety.”<sup>112</sup> This lack of regulation leaves incredible room for discretion in disciplinary action on the part of SROs as they are virtually unchecked in how they respond to disciplinary situations.

Similarly, Virginia law only vaguely addresses the training and regulation of roles SROs are expected to perform as part of the school system.<sup>113</sup> The title of the statute regulating the training of SROs is promising: “Compliance with minimum training standards by school resource officers.”<sup>114</sup> However, this statute requires only SROs hired after July 1, 2020, to “comply with the compulsory minimum training standards for school resource officers established by the Board within a period of time fixed by the Board.”<sup>115</sup> Furthermore, Virginia law requires that the school board of each district that employs SROs enters into a memorandum of understanding (MOU) with the local law enforcement agency.<sup>116</sup> This MOU is required to include provisions based on the model MOU which has been developed by the Virginia Center for School and Campus Safety, but the MOU “may be modified by the parties in accordance with their particular needs.”<sup>117</sup> Finally, the MOU must be reviewed at least every two years or when requested by either the school district or the local law enforcement agency.<sup>118</sup>

The wording in Virginia’s statutes is far from clear. It does not outline anything that specifically must be included in the SRO training curriculum. It does not even outline vague roles that SROs are expected to fulfill while employed at a school. The law also does not really give much guidance on the contents of the MOU required when a school district employs SROs since every school district can modify the model MOU to fit their needs.

There is no clarification about the roles that the SRO is supposed to play in any given situation. This lack of clarity lends itself to inconsistent responses by SROs based on the student’s race, ethnicity, gender, and disability status.<sup>119</sup> Furthermore, because consistency is critical to establishing trust and credibility in the SRO and the school-based policing program as a whole, this lack of guidance can be incredibly detrimental to the success of SRO programs in Wisconsin and Virginia.<sup>120</sup> Finally, the provision for review and amendment every two years or “upon request of either party”<sup>121</sup> can be either good or bad. If used appropriately, the amendment process could address problems with the current regime and clarify

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<sup>111</sup> *Id.* § 165.28(3).

<sup>112</sup> *Id.* § 165.28(1).

<sup>113</sup> *See* VA. CODE ANN. § 9.1-114.1 (West, Westlaw through 2022 Reg. Sess.); § 9.1-184(A)(12); *id.* § 22.1-280.2:3.

<sup>114</sup> VA. CODE ANN. § 9.1-114.1 (West 2019).

<sup>115</sup> *Id.*

<sup>116</sup> VA. CODE ANN. § 22.1-280.2:3 (West, Westlaw through 2022 Reg. Sess.).

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> McKenna & White, *supra* note 103.

<sup>120</sup> *Id.* at 467.

<sup>121</sup> § 22.1-280.2:3.

the expectations for SROs. However, this process could have a detrimental effect on the SRO program. If the MOU is amended rather than affirmed every two years, SROs may become even more confused about what role(s) they are expected to perform because the roles continually change every couple of years (or sooner depending on whether there are requests to review and amend the MOU before the next mandatory review).

## **C. Canada**

### **1. History of School Resource Officers and the School-to-Prison Pipeline**

The use of school resource officers emerged in the early 2000s in several of Canada's large metropolitan areas.<sup>122</sup> The SRO program in Ottawa began in 2001 as a way “to build relationships between youth and police and to increase safety at schools.”<sup>123</sup> The Toronto District School Board, Canada's largest school district, implemented its SRO program in 2008 after a student was shot and killed while at school.<sup>124</sup>

The beginning of the SRO program in Toronto followed the implementation of the Safe Schools Act, a “zero-tolerance [policy] for bad behavior” that expanded teachers' and principals' authority to suspend or expel students.<sup>125</sup> Just prior to the implementation of the SRO program in Toronto schools, the Safe Schools Act was amended by the Education Amendment Act in 2007, Bill 212, which attempted to provide a “gentler approach in dealing with troubled kids.”<sup>126</sup> This gentler approach appeared to have some positive implications, particularly for youth of color, but statistics from a 2017 study conducted by the Toronto District School Board revealed that 48% of students expelled from school over a period of five years were Black while Black students only made up 12% of the school population.<sup>127</sup> Furthermore, only forty-five public high schools in the Toronto School District employed police in them at least part-time.<sup>128</sup> These forty-five schools account for less than half of the high schools in

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<sup>122</sup> Kalyn Belsha, *Canada's Largest School District Ended Its Police Program. Now Toronto May Be an Example for U.S. Districts Considering the Same.*, CHALKBEAT, (June 19, 2020, 5:57 AM), <https://www.chalkbeat.org/2020/6/19/21297248/toronto-canada-ended-school-police-program-example-for-united-states-school-districts>; Jacquie Miller, *Police Presence Should Be Cut from Schools, Ottawa School Board Report Says*, OTTAWA CITIZEN, (June 8, 2021), <https://ottawacitizen.com/news/local-news/police-presence-should-be-cut-from-schools-ottawa-school-board-report-says>.

<sup>123</sup> Miller, *supra* note 122.

<sup>124</sup> Belsha, *supra* note 122.

<sup>125</sup> Anson Shen, *The School to Prison Pipeline: An Analysis on Systemic Racism with Ontario School Boards*, KROEGER POL'Y REV., (Nov. 24, 2020), <https://www.kroegerpolicyreview.com/post/the-school-to-prison-pipeline-an-analysis-on-systemic-racism-with-ontario-school-boards>.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> Belsha, *supra* note 122.

the district.<sup>129</sup> It is alleged by critics of SRO use in Canada that police were employed primarily in high schools that were located in communities of color with higher rates of poverty.<sup>130</sup>

While the implementation of the SRO program in Toronto was prompted by the death of a student at school, the prevalence of active shooter events at schools in Canada is much lower than in the United States.<sup>131</sup> Between 1884 and 2016, there have been a total of 19 active shooter events at schools in Canada.<sup>132</sup> Between 2009 and 2018, there were only two reported active shooter events at schools in Canada.<sup>133</sup> Several of these incidents resulted in one or no deaths.<sup>134</sup> However, the deadliest of these events was the École Polytechnique Massacre in Montreal on December 6, 1989.<sup>135</sup> This event claimed the lives of fifteen individuals (fourteen women and the perpetrator) and left thirteen others wounded.<sup>136</sup> Despite the significant death toll of the École Polytechnique Massacre, there was not a call for SROs to be placed in schools until the turn of the century; there was overwhelming support for stricter gun control laws instead.<sup>137</sup> The significantly smaller number of active shooter events in schools and the fewer overall number of deaths from such events may help explain why the implementation of SRO programs in schools has not been uniformly demanded across the country.

Canada's "model SRO" program was implemented in Peel, Ontario, to the west of Toronto. The SRO program was implemented as part of the neighborhood policing unit in order to ensure that relationships were built between the students and officers as well as "act as an initial recruitment pathway" and "address issues and complaints on school property."<sup>138</sup> According to Peel Regional Police, the SROs' primary responsibility is "to strive to create a safe learning environment" at secondary schools in the region.<sup>139</sup> This goal was achieved by SROs "forming positive partnerships with students and school administration."<sup>140</sup> SROs were

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *See School Shootings by Country 2021*, WORLD POPULATION REV., <https://worldpopulationreview.com/country-rankings/school-shootings-by-country> (last visited Oct. 18, 2022).

<sup>132</sup> *Id.*

<sup>133</sup> Grabow & Rose, *supra* note 44.

<sup>134</sup> *School Shootings by Country 2021*, *supra* note 131.

<sup>135</sup> *Id.*

<sup>136</sup> Stéphanie Lanthier, *École Polytechnique Tragedy (Montreal Massacre)*,

CANADIAN ENCYCLOPEDIA,

<https://www.thecanadianencyclopedia.ca/en/article/polytechnique-tragedy> (Mar. 29, 2021).

<sup>137</sup> *See id.*

<sup>138</sup> Linda Duxbury & Craig Bennell, *Assigning Value to Peel Regional Police's School Resource Officer Program*, 14 (2018); Joel Wittnebel, 'Change Was Necessary': *Peel Police Scraps School Officer Program, Acknowledges Harms to Racialized Students*, THE POINTER (Nov. 19, 2020), <https://thepointer.com/article/2020-11-19/change-was-necessary-peel-police-scraps-school-officer-program-acknowledges-harms-to-racialized-students>.

<sup>139</sup> Duxbury & Bennell, *supra* note 138, at 14.

<sup>140</sup> *Id.*

encouraged to police proactively by interacting with youth in a “non-enforcement manner” regularly.<sup>141</sup>

While the neighborhood policing unit was originally created to combat street crime, the unit’s focus shifted in 2003 to create safe learning environments in schools by dealing directly with issues in schools, particularly secondary schools, and acting as a liaison between the police department and schools.<sup>142</sup> In 2003, a mandate was issued outlining a list of activities and programs for which SROs were to be responsible in their assigned schools.<sup>143</sup> This mandate tasked SROs with enforcing statutes at the federal, provincial, and municipal levels, investigating all incidents and appropriately following up, creating projects to target behavior that interferes with a safe learning environment, monitoring youth gang activity, delivering lectures to students, and liaising between the police department and school officials.<sup>144</sup> However, in 2011, a revised mandate tasked SROs with enhancing the safety and security of the community, reducing violent crime in schools, reducing youth involvement in property crimes, creating safe school environments that “promote respect, responsibility, and civility,” reducing drug abuse using education, reducing lawless behavior in schools, providing proactive policing in public places that are popular gathering spots for youth, increasing youth involvement in crime reduction and youth programs, and maintaining a proactive approach toward monitoring and limiting gang-related activities.<sup>145</sup>

Overall, the sixty SROs in the Peel Region were expected to work with teachers, parents, and the community to enhance perceptions of safety and security in both the schools and the community.<sup>146</sup> There was an SRO assigned to each high school in the Peel Region; SROs were partnered to have responsibility for two schools.<sup>147</sup> These SROs were supervised extensively by eight sergeants and four staff sergeants.<sup>148</sup> This SRO program, which cost over \$9 million annually, was dissolved in 2020 following complaints from Black and Indigenous students that the program was not only not meeting their needs but negatively impacting that segment of the student population in schools.<sup>149</sup> The impact of this SRO program “was often traumatic and deeply damaging for students, particularly those who are Black.”<sup>150</sup>

Prior to dissolving the program, an extensive study was completed by professors evaluating the effectiveness of the program. This study found that SROs

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<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> *Id.* at 14–15.

<sup>144</sup> Duxbury & Bennell, *supra* note 138, at 14.

<sup>145</sup> *Id.* at 15.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> Kevin Jiang, *Peel Police End Controversial Program That Put Officers in Schools*, TORONTO STAR, <https://www.thestar.com/news/gta/2020/11/18/peel-police-announce-permanent-end-to-controversial-program-that-put-officers-in-schools.html> (Nov. 19, 2020).

<sup>150</sup> Wittnebel, *supra* note 138.

spent the most time, approximately 25%, doing administrative work.<sup>151</sup> SROs reported spending approximately 10% of their time at work engaging in various types of patrol work.<sup>152</sup> Approximately 5% of SROs' time was spent patrolling with school officials, working on Problem Oriented Policing projects, and appearing in court.<sup>153</sup> Additionally, the researchers found that the SROs spent more time on duty engaging in proactive policing and crime prevention than reactive policing.<sup>154</sup>

Another important aspect of this study evaluated the students' impressions of the SROs in their school and the program generally. To evaluate the students' perceptions of the SRO program, the researchers both interviewed eight students and distributed surveys.<sup>155</sup> Overall, the responses to the interview questions were positive. However, only 25% of the students surveyed identified as a member of a minority while 84% of the student population was non-white.<sup>156</sup> The students generally trusted the SROs enough to report problems at school and report a crime.<sup>157</sup> Additionally, most students reported feeling at least "mostly safe" at school, citing SRO presence as a factor in this feeling of safety.<sup>158</sup> The students reported feeling safer at a school with a full-time SRO because their presence visibly deters dangerous or rule-breaking behavior, response time to danger is probably quicker than if there was not an SRO placed in the school, and SROs are a resource that students can use if they need help.<sup>159</sup> Only a few students reported holding negative views of the SRO in their school while 80% of the students surveyed held positive views of their SRO at least half of the time.<sup>160</sup> All of the students who were interviewed for this study reported that they would prefer to go to a school with a full-time SRO than a school without one.<sup>161</sup> However, only half of the students reported that having SROs in the community after school enhanced their perceptions of safety on the way home from school; the other half of students reported that the SRO presence had no impact on their perception of safety.<sup>162</sup>

School administrators were also interviewed about their perceptions and interactions with the SROs assigned to their schools. When asked what the three most important activities that SROs perform at the school were, school

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<sup>151</sup> Duxbury & Bennell, *supra* note 138, at 41 (describing administrative work as report writing and related tasks such as logging property, updating supervisors, preparing court documents, etc.).

<sup>152</sup> *Id.* at 41–42 (including four activities: responding to criminal calls at or around the school, patrolling generally in and around the school, liaising between school officials and the police department, and engaging in "other" patrol work).

<sup>153</sup> *Id.* at 42.

<sup>154</sup> *Id.*

<sup>155</sup> *Id.* at 46–47.

<sup>156</sup> Wittnebel, *supra* note 138.

<sup>157</sup> Duxbury & Bennell, *supra* note 138, at 52.

<sup>158</sup> *Id.* at 54.

<sup>159</sup> *Id.* at 56–57.

<sup>160</sup> *Id.* at 72.

<sup>161</sup> *Id.* at 91 (citing advantages such as greater perceived safety at school, less illegal and/or unsafe activities occurring at and around school, fewer instances of bullying, and increased ability to focus on school work because SRO presence made them worry less).

<sup>162</sup> Duxbury & Bennell, *supra* note 138, at 55–56.

administrators identified supporting school administrators in their duties (66%), acting as a deterrent to crime in the school (60%), and building positive relationships with students by interacting with them constructively (50%).<sup>163</sup> Approximately 65% of the school administrators reported that having an SRO present in the school made them feel either “much safer” or “somewhat safer” while the rest reported the presence of the SRO made no impact on their feelings of safety at school.<sup>164</sup> However, these opinions may be skewed by fear of a “police organization that systematically discriminates, harasses and punishes those who try to speak out.”<sup>165</sup>

Finally, the researchers assessed which activities regularly performed were most important from the perspective of the SROs. The interviewed SROs agreed that relationship building and enhancing the visibility of the SRO in the school and surrounding community were two of the most important groups of activities performed by SROs in schools.<sup>166</sup> However, there was disagreement regarding the third most important type of activity performed by SROs in the Peel Region.<sup>167</sup>

The SROs who were interviewed named very few issues with the current program. SROs mentioned feeling obligated to respond to every request made by the school administration, even minor requests, as a potential issue.<sup>168</sup> This sense of obligation was perceived as the administration’s attempt to bypass bureaucratic red tape, making suspension and expulsion of problematic students easier.<sup>169</sup> Additionally, SROs noted that scheduled coverage was limited to school hours meaning that any issues that arose after school hours and on weekends were mostly handled by regular police officers.<sup>170</sup> Because officers who work as an SRO have received some formal training on the duties of the job and have built relationships with the students in the school, the SROs expressed concern that regular uniformed officers were less likely to handle the exchange with students as well as the SRO assigned to the school.<sup>171</sup>

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<sup>163</sup> *Id.* at 115–16. School administrators also identified enforcing the law (40%), educating students and families on the police’s societal role (24%), visiting the school daily (15%), acting as a bridge between the school and the community (15%), running wellness checks on students who are missing classes (15%), and diverting students appropriately (15%) as important activities performed by SROs.

<sup>164</sup> *Id.* at 120.

<sup>165</sup> Wittnebel, *supra* note 138.

<sup>166</sup> Duxbury & Bennell, *supra* note 138, at 150.

<sup>167</sup> *Id.* at 150–51 (reporting collaboration with students, staff, and outside police to make the school safer, education about the role of the police and law, proactive intelligence gathering to prevent and deal with crime, and effective crime solving were listed as some of the important SRO functions from the view of the SROs).

<sup>168</sup> *Id.* at 161.

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

## 2. Regulation of School Resource Officers

There does not appear to be federal regulation of training for SROs in Canada.<sup>172</sup> Additionally, there does not appear to be any regulation of training for SROs in any provincial code in Canada.<sup>173</sup> Thus, designing and implementing training protocols for SROs is left to the individual police departments and school boards throughout the country.

It is possible that the training protocol for new SROs is part of the reason that the Peel Region SRO program was perceived to be so effective by students, administrators, SROs, and other stakeholders. Prior to beginning work as an SRO, officers were required to attend a week-long job-specific training.<sup>174</sup> This training addressed how to deal with students and situations specific to schools; officers were also introduced to material related to the School Police Emergency Action Response (S.P.E.A.R.) designed to “provide police and other emergency services with critical and accurate school information to assist in responding to school emergencies.”<sup>175</sup> The week-long training also provides information on proactive policing practices and how to deal with students experiencing mental health symptoms.<sup>176</sup> SROs are also required to be trained in Immediate Rapid Deployment to ensure they know how to “actively confront a developing high-risk crisis.”<sup>177</sup> The final component of SRO training in the Pool Region was a year of school and community-specific on-the-job training from the senior SRO partner in the pair of SROs assigned to two schools.<sup>178</sup> While this training protocol was extensive, SROs reported that additional training addressing skills such as interacting with youth, using social media, presenting, and listening; some SROs voiced that spending more time on the training currently provided would be helpful.<sup>179</sup>

This training protocol is much more extensive than those in other areas of Canada. In Alberta, there is no pre-employment training program for SROs.<sup>180</sup> While new SROs frequently shadow more experienced SROs for a period of time,<sup>181</sup> SROs relied on the basic police training they received and their prior experiences as police officers outside of the school, making it unclear whether this shadowing training is effective in teaching anything relevant to competently and effectively performing SRO duties.<sup>182</sup>

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<sup>172</sup> See R.S.C.; C.R.C.

<sup>173</sup> See R.S.A.; R.S.B.C.; R.S.M.; C.C.S.M.; R.S.N.B.; R.S.N.L.; C.N.L.R.; R.S.N.W.T.; R.R.N.W.T.; R.S.N.S.; R.S.O.; R.R.O.; R.S.P.E.I.; R.R.P.E.I.; R.S.Q.; C.Q.L.R.; R.R.Q.; R.S.S. R.R.S.; R.S.Y.

<sup>174</sup> Duxbury & Bennell, *supra* note 138, at 136.

<sup>175</sup> *Id.*

<sup>176</sup> *Id.* at 137.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> Duxbury & Bennell, *supra* note 138, at 137.

<sup>180</sup> G. Abela & J.K. Donlevy, *Violence in Alberta's Urban Schools: The Perspectives of School Resource Officers*, 29 *EDUC. & L.J.*, 1, 6 (2020).

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

Despite the wide-ranging differences in training protocols between SRO programs, many larger programs across the country have been discontinued in recent years. Even with the more extensive training program in place in the Peel Region, the police department and school boards agreed to pull SROs out of schools in 2020.<sup>183</sup> The Peel police cited concerns that the SRO program made Black, Indigenous, and other students of color feel unsafe at school.<sup>184</sup> Additionally, the press release from the Peel Police Department reported that even though there was significant support for the SRO program, enduring concerns about “systemic racism and disproportionately punitive effects” produced by SRO programs outweighed the support.<sup>185</sup>

Similarly, the Toronto District School Board, the largest school district in the country, ended the SRO program that had been in place for about ten years following findings that the program made students “feel uncomfortable and even intimidated.”<sup>186</sup> Despite the 57% of respondents who were surveyed reporting a “generally positive impression” of the SRO program, 10% “strongly disagreed.”<sup>187</sup> Of the students surveyed prior to the discontinuance of the Toronto SRO program, approximately 2,200 students reported that having an SRO in the school made them feel “watched or targeted.”<sup>188</sup> Additionally, approximately 880 students reported feeling “uncomfortable” interacting with the SRO.<sup>189</sup>

The Edmonton Police Department and School Board have taken a slightly different approach to removing SROs from schools. The SRO program, which provided 17 officers to schools in the district, was canceled prior to the 2020–2021 academic year.<sup>190</sup> Rather than being placed in schools, the 17 SROs were placed in a new Youth-Enhanced Deployment (YED) model, which specifically utilizes officers who have been trained to work with youth.<sup>191</sup> In order to utilize the services of the YED unit, the school will call a non-emergency police line to request the assistance of a YED officer when available; if no YED officer is available at the time, regular officers will be sent to assist instead.<sup>192</sup> It is unclear how effective this model will be since it was only implemented in 2020. Research on the effects of the YED model is needed to determine whether this is a viable option for other school districts to follow.

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183 *Peel Regional Police to Pull Resource Officers Out of Schools Permanently*, *supra* note 9.

184 *Id.*

185 *Id.*

186 Nasser, *supra* note 9.

187 *Id.*

188 Belsha, *supra* note 122.

189 *Id.*

190 Boothby, *supra* note 9.

191 *Id.*

192 *Id.*

### III. IMPROVING POLICE INTERACTIONS WITH STUDENTS IN SCHOOLS

Police have been interacting with students at school for a long time. SROs have been involved in schools in the United States since the 1950s.<sup>193</sup> SROs have also been involved in schools in Canada for several decades.<sup>194</sup> Enduring concern about disproportionate minority contact in the juvenile justice system and the school-to-prison pipeline has colored the perceptions of SRO programs and interactions with SROs in both countries.

During the 2017–2018 school year, 50.9 million students attended 97,632 public schools across 17,604 school districts in the United States.<sup>195</sup> The racial and ethnic backgrounds of students in public schools have continued to diversify in recent years. During the 2017–2018 school year, 47.3% of students identified as White, 27.2% Hispanic or Latino, 15.1% Black, 5.2% Asian, 3.8% Biracial or Multiracial, 1.0% American Indian or Alaska Native, and 0.4% Native Hawaiian or Pacific Islander.<sup>196</sup> Between the 2015–2016 and 2017–2018 school years, the overall number of disciplinary actions decreased by two percent.<sup>197</sup> However, the number of school-related arrests, expulsions with educational services, and referrals to law enforcement all increased.<sup>198</sup> While Black students only made up 15.1% of the national school population, they accounted for 38.8% of expulsions with educational services and 33.3% of expulsions without educational services.<sup>199</sup> American Indian or Alaska Native students were also expelled at rates higher than their proportion of total student enrollment nationally.<sup>200</sup> Students with disabilities under the Individuals with Disabilities Education Act (IDEA) made up only 13.2% of the student population but accounted for 23.3% of expulsions with educational services and 14.8% of expulsions without educational services.<sup>201</sup>

Contact with law enforcement and arrests at school followed a similar pattern to expulsions, particularly regarding the treatment of Black students. Black students accounted for 28.7% of students referred to law enforcement and 31.6% of

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<sup>193</sup> Shaw, *supra* note 10.

<sup>194</sup> Boothby, *supra* note 9.

<sup>195</sup> Office for Civil Rights, *An Overview of Exclusionary Discipline Practices in Public Schools for the 2017-18 School Year*, U.S. DEP'T OF EDUC., <https://ocrdata.ed.gov/assets/downloads/crdc-exclusionary-school-discipline.pdf> (June 2021).

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.* School-related arrests increased by 5%; expulsions with educational services increased by 7%; referrals to law enforcement increased by 12%.

<sup>199</sup> *Id.*

<sup>200</sup> Office for Civil Rights, *supra* note 195. American Indian or Alaska Native students accounted for 1.0% of total student enrollment, 1.1% of expulsions with educational services, and 1.8% of expulsions without educational services.

<sup>201</sup> *Id.*

students arrested at school or during school-sponsored activities.<sup>202</sup> These disparities were compounded for Black students served under IDEA.<sup>203</sup>

In Canada, on the other hand, race- and ethnicity-based statistics were not nationally collected until recently. In July 2020, Statistics Canada and the Canadian Association of Chiefs of Police announced that they would begin collecting data on “ethno-cultural and Indigenous groups” when they gather information on victims and people who have been accused of a crime.<sup>204</sup> Few provinces have consistently collected data regarding race and ethnicity of arrestees.<sup>205</sup> In fact, Canada’s Department of Justice described data addressing race in the criminal justice system as “remain[ing] scarce and incomplete.”<sup>206</sup> Race is so ignored in the Canadian criminal justice system that as of July 2020, only Ontario required race to be collected when police force is used on a person.<sup>207</sup> However, the race is recorded based on the officer’s perception, drawing into question the validity of these data.<sup>208</sup> From the data that is currently available, Indigenous youth are overrepresented in custody in jurisdictions that report such data.<sup>209</sup> While Indigenous youth represent only approximately 8% of the Canadian youth population, these youth made up 48% of custody admissions and 39% of community corrections admissions in 2017–2018.<sup>210</sup>

Despite data on the issue being scarce, the “available evidence indicates that a significant proportion of Canada’s racial minority populations and a sizable proportion of the white population perceive bias in the criminal justice system,”<sup>211</sup> and this widespread perception of bias in the system has been enough to promote change in how the police are involved with citizens. While the data have not been consistently collected in Canada to statistically confirm the widespread perception of bias, governments and school boards in Canada’s provinces have taken steps toward addressing the issues of racism in policing students. First, as previously discussed, many of Canada’s larger school districts have pulled SROs from schools

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<sup>202</sup> *Id.*

<sup>203</sup> *Id.* Black students served by IDEA made up 2.3% of the student population but made up 8.4% of students referred to law enforcement and 9.1% of student arrests.

<sup>204</sup> Sarah El Gharib, *Canada Commits to Collecting Race-Based Crime Data*, GLOBAL CITIZEN, <https://www.globalcitizen.org/en/content/canada-to-collect-racial-data-police/> (July 16, 2020).

<sup>205</sup> See Research and Statistics Division, *Indigenous Overrepresentation in the Criminal Justice System*, JUST FACTS, <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/docs/may01.pdf> (May 2019).

<sup>206</sup> El Gharib, *supra* note 204.

<sup>207</sup> Inayat Singh et al., *Why Race-Based Data Collection by Police Could play a Role in Reform Debate*, CBC NEWS, <https://www.cbc.ca/news/canada/race-police-data-ontario-1.5636301> (July 7, 2020, 4:00 AM).

<sup>208</sup> *Id.*

<sup>209</sup> Research and Statistics Division, *supra* note 205.

<sup>210</sup> *Id.* These data exclude Prince Edward Island, Nova Scotia, Quebec, Alberta, and Yukon due to unavailability of data in these provinces.

<sup>211</sup> *Race, Crime and Justice in Canada*, JOHN HOWARD SOC’Y CAN., <https://jhscan.wpengine.com/blog/race-crime-justice-canada/> (Oct. 19, 2017).

and ended SRO programs.<sup>212</sup> The evidence against the SRO programs, albeit anecdotal, made it clear that students who identify as a racial or ethnic minority in schools with SROs stationed in full-time positions “[did] not feel safe when SROs and other police officers [were] present in schools.”<sup>213</sup> The SRO program in Edmonton received similar critiques from stakeholders in the community.<sup>214</sup> As a result, Edmonton police shifted from SROs placed in schools to a Youth-Enhanced Deployment Initiative (YED) beginning in 2020.<sup>215</sup> While this initiative was originally deployed in response to the COVID-19 pandemic causing remote learning, the program has continued following the return to in-person learning.<sup>216</sup> The program appears, at least initially, to be effective in facilitating continued contact between police, schools, students, and families without a constant presence in schools.<sup>217</sup> Within the first month of the program, YED constables completed 663 patrol calls, 1,110 school follow-ups, 1,024 self-generated youth checks, 72 AHS/CFS calls, and 1,344 pro-active calls.<sup>218</sup>

Removing SROs from schools and shifting the use of police officers to a specialized youth deployment unit may be a viable option for many school districts in the United States. Doing so may benefit schools and students in several ways. Money that is currently funneled into school resource officer programs could be used for other purposes, such as creating more jobs for school counselors, nurses, social workers, and psychologists. Schools that invest in mental health services experience several benefits: “improved attendance rates, lower rates of suspension and other disciplinary incidents, lower rates of expulsion, improved academic achievement and career preparation, and improved graduation rates.”<sup>219</sup>

Professional organizations make recommendations for the ratios of mental health workers employed at schools to students served; there should be one school psychologist per 500–700 students, one social worker per 250 students, one school counselor per 250 students, and one nurse per 750 students.<sup>220</sup> During the 2015–2016 academic year, the national average ratio of students to counselor was 444:1; students to social worker was 2,106:1; students to school psychologist was 1,526:1; and students to nurse was 936:1.<sup>221</sup> Furthermore, over 4,800 schools reported employing more school police and security personnel than all categories of mental

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<sup>212</sup> *Peel Regional Police to Pull Resource Officers Out of Schools Permanently*, *supra* note 9; Nasser, *supra* note 9; Boothby, *supra* note 9.

<sup>213</sup> Nick Westoll, *Peel Regional Police end school resource officer program after community consultation*, GLOBAL NEWS, <https://globalnews.ca/news/7471721/peel-regional-police-school-resource-officer-program-dissolved/> (Nov. 18, 2020, 11:33 PM).

<sup>214</sup> Boothby, *supra* note 9.

<sup>215</sup> *School's Out, SROs are not*, EDMONTON POLICE SERVICE, <https://www.edmontonpolice.ca/News/SuccessStories/SRO> (last visited Oct. 19, 2022).

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> ACLU, *Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students*, 6, <https://www.aclu.org/report/cops-and-no-counselors> (last visited Oct. 18, 2022).

<sup>220</sup> *Id.* at 11–14.

<sup>221</sup> *Id.*

health providers combined.<sup>222</sup> On the other hand, schools where police were present, reported significantly higher arrest rates than schools where police were not present.<sup>223</sup> Given the numerous benefits that increasing mental health personnel presence at schools provide students, schools, and communities and the detrimental impact that having law enforcement in schools has on the same, it makes sense to shift law enforcement out of schools and mental health treatment into them. School districts in the United States should consider following the leads of many of the largest school districts in Canada.

Because the use of police and gun control are particularly politicized issues in the United States, a quick and easy removal of SROs and replacement with qualified mental health professionals may not be a perfect transition. An intensive look into both the American and Canadian SRO regimes makes it clear that more in-depth and standardized basic training is needed to address school-to-prison pipeline issues in American (and Canadian) schools. SROs themselves have expressed the need to complete more training related to working with children and in schools.<sup>224</sup>

At a minimum, the NASRO Basic and Advanced Trainings should be required for every SRO prior to beginning work in a school.<sup>225</sup> States should enact legislation requiring the NASRO trainings or the equivalent of such training prior to beginning work in a school. More training would be even better, but the equivalent to the NASRO sixty-four-hour trainings must be the baseline. However, learning the skills and tools that are necessary to successfully navigate working with youth in schools takes longer than sixty-four hours of class time to master. The transition from patrolling the streets to patrolling the hallways can be a difficult one. In order for this transition to be successful, SRO training must include modules about adolescent psychology and using techniques promoting “positive relationships, student strengths, and good social behavior” to collaborate with teachers, counselors, and school administrators.<sup>226</sup> Therefore, it is vital that SROs receive a significant period of on-the-job training; shadowing experienced officers and learning from guided practice are important techniques that should be required before SROs are allowed to work on their own. Requiring a minimum of one year of on-the-job training, like SROs in the Peel Region, should be a standard for all SROs entering the field, regardless of whether they are fresh out of the academy or eyeing retirement.

On top of increased and standardized training, schools and police departments must work together to clarify exactly what the school administration expects from SROs stationed at their schools. Shifting from patrolling the streets to patrolling the school hallways can be difficult for anyone; SROs who receive

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<sup>222</sup> *Id.* at 16.

<sup>223</sup> *Id.* at 23.

<sup>224</sup> Duxbury & Bennell, *supra* note 138.

<sup>225</sup> See National Association of School Resource Officers, *supra* note 80; National Association of School Resource Officers, *supra* note 84.

<sup>226</sup> Faye Elkins, *SROs Collaborate to Enhance School and Student Life in a New Training Program*, U.S. DEP'T OF JUST., (Aug. 2020), [https://cops.usdoj.gov/html/dispatch/08-2020/sro\\_training.html](https://cops.usdoj.gov/html/dispatch/08-2020/sro_training.html).

various and inconsistent expectations from school administration and the police department may create further challenges for the officer navigating this transition.<sup>227</sup> SROs are frequently expected to play conflicting roles while on the job.

Specific guidance on when the SRO is expected to fulfill each of the competing roles is vital to ensuring that they understand their job, do not act irrationally, or allow their biases—both conscious and unconscious—from getting the best of them, causing detrimental consequences for the students with whom they interact on a daily basis. Memorandums of Understanding (MOUs) are great tools to ensure SROs, school administrations, and police departments are all on the same page regarding what is expected of SROs while at work. While the use of MOUs has become more common in recent years, the use is still not a universal practice. State-level legislation requiring or incentivizing the use of MOUs will help clarify the role(s) that an SRO is expected to play at the school, likely reducing SRO discretion and increasing consistency in responses from SROs regardless of the student’s race, ethnicity, gender, sexual orientation, or disability status.

Finally, because transitioning back to a time in which police are not hallmarks in school hallways without another system in place would be difficult, schools must be prepared to implement another way to address most issues that have been dealt with by SROs over the last several decades. Restorative justice practices have been implemented and studied in a handful of schools across the United States in recent years.<sup>228</sup> Several benefits of using restorative justice in schools have been observed. First, utilizing restorative justice practices was associated with “16% reduced odds of missing school” due to physical health issues.<sup>229</sup> Second, students attending a school that utilized restorative justice practices had a twelve-month average GPA 0.52 points higher than students attending a school that did not utilize such practices.<sup>230</sup> Third, youth courts in schools appear to have several positive effects on school populations and culture such as increasing students’ school satisfaction, improving mental health, social relationships, and overall school environment/culture because students are more invested in sustaining a calm and nonviolent environment.<sup>231</sup> Fourth, restorative circles have also shown promise in

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<sup>227</sup> Trisha N. Rhodes, *Officers and School Settings: Examining the Influence of the School Environment on Officer Roles and Job Satisfaction*, 18 *POLICE Q.* 134, 136 (2015).

<sup>228</sup> See Cheryl Anderson et al., *Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools A Guide for Educators*, ADVANCEMENT PROJECT, <https://advancementproject.org/resources/restorative-practices-fostering-healthy-relationships-promoting-positive-discipline-in-schools/> (Mar. 20, 2014); Jelena Todic et al., *Reframing School-Based Restorative Justice as a Structural Population Health Intervention*, 62 *HEALTH & PLACE* (2020); Paul R. Smokowski et al., *Implementing School Based Youth Courts in a Rural Context: The Impact on Students’ Perceptions of School Climate, Individual Functioning, and Interpersonal Relationships*, 35 *CHILD & ADOLESCENT SOCIAL WORK J.* 127, 127–138 (2018); Lilyana Ortega et al., *Outcomes of a Restorative Circles Program in a High School Setting*, 6 *PSYCH. OF VIOLENCE* 459, 459–468 (2016).

<sup>229</sup> Todic, *supra* note 228, at 5.

<sup>230</sup> *Id.*

<sup>231</sup> Smokowski, *supra* note 228, at 134-35.

reducing use of exclusionary discipline, because restorative circles teach students new skills and tools with which they can use to approach conflicts instead of using violence.<sup>232</sup> These numerous observed benefits of utilizing restorative justice practices suggest that removing SROs from schools and implementing a gentler approach to offending in schools may be vitally important to effectively educate and nurture the next generation.

#### IV. CONCLUSION

This Note has examined the history behind the use of school resource officers in the United States and Canada as well as the role that placing police in schools has played in building the school-to-prison pipeline. An analysis of the limited regulation and training of SROs makes it clear that the current system of SRO programs throughout the United States are not achieving the goals that underlined the explosion of SRO programs in the 1990s. Schools are not safer, and students are exposed to the juvenile justice and criminal justice systems at increased rates following the increased implementation of SRO programs across the country.

It is time that the United States takes a critical look at the current SRO regime. What has been implemented is not working—something must change. Several suggestions to improve school discipline and start to dismantle the STPP are outlined above in Part III of this Note. Legislatures must act to regulate and train SROs or remove them from schools altogether. School districts need to explore the potential benefits of increasing the presence of mental health professionals in schools and utilizing restorative justice practices. The time for change has come. Schools are built for learning, not policing.

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<sup>232</sup>

Ortega, *supra* note 228, at 461.

